

REMARKS

Claims 1-26 are pending in the application. In an Office Action mailed February 23, 2004, Claims 16, 22, 25, and 26 were rejected under 35 U.S.C. § 102(a) and Claims 1-6, 9-22, 25, and 26 were rejected under 35 U.S.C. § 112, second paragraph. Claims 7, 8, 23, and 24 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.¹ Claims 1-26 are amended by way of this amendment and response.

Claim Rejections Under 35 U.S.C. § 102(a)

Claims 16, 22, 25, and 26 stand rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,098,512 issued to Life et al. (hereinafter "Life"). Applicants respectfully disagree with the foregoing rejections.

In order to anticipate a claim, a reference must teach each and every element of that claim. Thus, if every element of the claim is not described or inherently suggested by the reference, the claim cannot be rejected under 35 U.S.C. § 102(a) as being anticipated by the prior art. Further, the elements described or suggested in the reference must be arranged as required by the claim, although the terminology need not be identical.² In view of the claimed elements of Claims 16, 22, 25, and 26 relative to Life, applicants submit that Life fails to describe or suggest each and every element of the foregoing claims. Thus, applicants respectfully submit that the rejection of Claims 16, 22, 25, and 26 under 35 U.S.C. § 102(a) is improper.

¹ Applicants respectfully note that Claim 1, as well as certain other claims, has been rejected only for reasons of formality under 35 U.S.C. § 112. Therefore, applicants understand that these claims are otherwise allowable if the rejections under 35 U.S.C. § 112, second paragraph, are overcome.

² *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

More specifically, applicants respectfully note that Life fails to teach or suggest "a conveyor belt for conveying an object to be portioned by a fluid jet, the conveyor belt formed from a plurality of pickets coupled to one another in a nested relationship" as recited in Claim 16 and as similarly recited in Claim 26, which claims a conveying surface comprised "of a plurality of pickets, each having a length comprised of a sequence of geometrically shaped links disposed transversely across the conveyor belt between the first and second drive chains and in a nested relationship to one another." In contrast, Life teaches a plurality of flights 86 disposed in a series of rows relative to one another to form a conveyor belt. The flights 86 are linear pieces oriented parallel to one another and therefore are not in a nested relationship as claimed by applicants. Accordingly, applicants respectfully submit that the rejection under 35 U.S.C. § 102(a) of Claims 16 and 26, as well as the subclaims depending therefrom is improper. Therefore, applicants respectfully request that the rejection be withdrawn.

Further, applicants respectfully submit that the claims are also non-obvious over any of the references of record. In that regard, Life fails to mention either the need or desire of a conveyor belt that includes a plurality of pickets coupled to each other in a "nested relationship," in the manner recited in amended Claims 16 and 26. Therefore, applicants respectfully submit that Life, whether taken individually or in hypothetical combination with the other references of record, fails to teach or suggest the embodiments of amended Claims 16 and 26.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-6, 9-22, 25, and 26 were rejected under 35 U.S.C. § 112, second paragraph, for being incomplete. The Office Action stated that the "claims must include drive chains 16 and 18 and pivot rods 14 for the chain to be complete." Applicants respectfully disagree with the position that the foregoing claims "must include drive chains" and "pivot rods" and have amended Claims 1, 16, and 26 to more clearly define the claims. Generally the claims have been

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

amended to focus on the conveyor belt itself instead of the conveyor belt assembly and to point out the interrelationship between the pickets by positively reciting that the pickets are interrelated to one another. Applicants respectfully submit that 35 U.S.C. § 112, second paragraph, does not require applicants to recite the specific elements used in the preferred embodiment for interrelating the pickets (i.e. the drive chains and pivot rods) for the conveyor belt to be complete, but must only clearly and distinctly point out the subject matter which the applicants regard as their invention. "If the scope of subject matter embraced by a claim is clear, and if the applicant has not otherwise indicated that he intends the claim to be of a different scope, the claim does particularly point out and distinctly claim the subject matter which the applicant regards as his invention." *In re Borkowski*, 57 CCPA 946, 952, 422 F. 2d 904, 909, 164 USPQ 642, 646 (1970). "The claims need only make it clear what subject matter they encompass and make clear the subject matter from which they would preclude others." *In re Hammack*, 57 CCPA 1225, 1230, 427 F.2d 1378, 1382, 166 USPQ 204, 208 (1970).

Applicants' submit that the claims, as amended, particularly point out and distinctly claim the subject matter which the applicants' regard as their invention, that all elements of the claim are properly related to one another, and that the claims are complete. Thus, applicants' submit that the rejection of Claims 1, 16, and 26, and those claims depending thereon, under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Objected Claims

Applicants thank the Examiner for noting the allowability of Claims 7, 8, 23, and 24 if rewritten in independent form including all of the limitation of the base claim and any intervening claims.


LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSTM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

CONCLUSION

In view of the foregoing remarks and amendments, applicants respectfully submit that the present application is in condition for allowance. Reconsideration and reexamination of the application, as amended, and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicants' undersigned attorney at the number below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

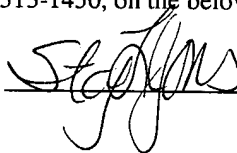


Brian D. Krell
Registration No. 51,899
Direct Dial No. 206.695.1638

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date:

May 19, 2004



BDK:slj

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100